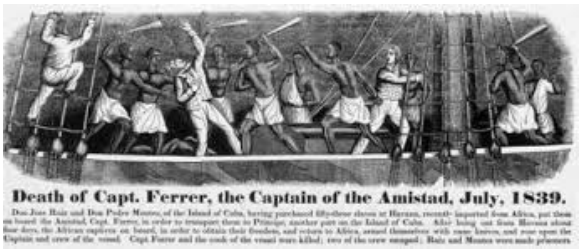
THE 3/5^{ths} CLAUSE:

The "Covert Language" of the Founding Fathers



Death of Capt. Ferrer, the Captain of the Amistad, July, 1839.

Dos Jose Ruiz and Don Pedro Montes, of the Island of Cuba, having purchased fifty-three slaves at Havana, recently imported from Africa, put them on board the Amistad, Capt. Ferrer, in order to transport them to Principe, another port on the Island of Cuba. After being out three days, the African captives on board, in order to obtain their freedom, and return to Africa, armed themselves with cane knives, and rose upon the Captain and crew of the vessel. Capt Ferrer and the cook of the vessel were killed; two of the crew escaped; Ruiz and Montes were made prisoners.

The term "racist" did not take on its negative connotations until the turn-of-the-century. Prior to the 1890s, the term "racialist" was used to describe theories in the anthropological and biological sciences. The word became identified with the worst types of bigotry in the wake of The Holocaust. As a result of the revelations of Hitler's mass murder, the term became tied to governmental policy and divorced from its scientific origins. It has been an insult carelessly thrown around political discussions since. American politicians and entire political parties are now regularly slandered as being "racist" by pundits opposing certain types of legislation.

Quick factoids provide talking heads and opinion makers an undeserved feeling of being in the know. The most popular of these factoids to be used in support of a view of a "racist" America is that of the "3/5ths of a person" stipulation for the slave population in the Constitution, which seemingly defines a black person as only partially human. This factoid is used to impeach the generation of the Founding Fathers, and by extension, the form of government they created.

There are consequences to this incomplete and incoherent thought. First, it makes for an "ass backwards" conception of history, technically speaking, by putting the proverbial cart before the horse. This view fails to comprehend what the Pilgrims and everyone that followed was escaping from. It was the drafting of the Declaration of Independence and the United States Constitution that finally divorced us from all of the "Old World" baggage, including aristocratic notions of class division, an aristocratic antipathy towards manual labor, monarchies, age-old conflicts, and yes, slavery. Slavery was a symptom of European aristocratic elitism, which had no sense of "rugged individualism," and which, quite frankly, regarded manual labor as a sign of lower status. John Kay, author of the 2003 book "Culture and Prosperity" offers a Briton's analysis of the cultural differences between the American North and South:

> The settlers in New England, and the Hudson and Delaware valleys, were predominantly middle-class religious dissenters. Those of the South were displaced aristocrats, who sought to reproduce in America the economic system from which they had derived their status in Europe. The shortage of labor was met, not by higher wages, but by the import of slaves. (Pg. 58)

If Kay is right, then this aristocratic aversion to labor not only engendered a society dependent on slavery, but also precluded it from innovating the labor-saving technologies which industriousness inspired in the American North. It is important for future generations to comprehend that the slovenly cohabitation of "master" and "slave" was not only barbaric, but a detriment to both oppressor and oppressed. The slave-masters refused to abandon this state of dependence for a more industrious form of earning a living. They fully intended to perpetuate this unnatural and wicked cohabitation of master and slave. This is a crucial concept in order to comprehend the relationship between the governed and government. Simply controlling and manipulating the labor of the masses in order to perpetuate existence can only lead to a slovenly stasis of the likes found in a slave plantation. This was the eventual downfall of the aristocratic South. The South's inability to match the resources of the industrial North's ultimately lost them the Civil War. The Confederate South was stuck in its

aristocratic plantation economy, while the North had developed an industrial infrastructure to produce and distribute the superior armaments that won it the war.

The other consequence of perverting history towards contemporary political ends is that it only helps obscure the more rancid aspects of the actual history. The corruption that was actually behind the "3/5ths of a person" legislative system of counting humans had important historical consequences that are important to truthfully impart to future generations. Yet, it seems like everyone from modern movie makers to journalists use this stipulation in the U.S. Constitution to claim that the Founding Fathers believed that those of African descent were only worth 3/5ths of a white person. This is a tragic misreading of history, as it obscures the slaveholder's true intentions. A more accurate telling of history is that the 3/5ths stipulation was a prime example of a ruling elite trying to have their cake and eat it, as the 3/5ths stipulation was used to increase the numbers of a population whose existence they didn't truly intend to recognize.

The slaveholders truly wanted to use the terms "property" and "slave," but a compromise was reached that would preserve the integrity of the Declaration of Independence and the U.S. Constitution. The slaveholders proposed this measure in order to use the slave population to boost their population numbers and thus their representation in the U.S. Congress. By this measure, it's probably more honest to characterize it as the first and most notorious example of the corrupt political practice of "redistricting" or "gerrymandering," the modern day practices of manipulating a population count towards the perpetuation of political power. According to a 2002 article by the Claremont Institute posted on the P.B.S. website, entitled "Rediscovering George Washington," an account of what actually transpired is preserved in the diary of James Madison:

> Since representation in the House of Representatives was to be based on population, **a debate arose over whether slaves should be counted in a state's population**. According to James Madison's diary, the issue of slavery was the most divisive subject at the convention. While many of the Founding Fathers including George Washington viewed slavery as inconsistent with the principles of the Revolution and the Declaration of Independence, they knew that there was little chance of abolishing slavery at the time. After all, if those opposed to slavery insisted on its abolition, slave states could have walked out of the convention and formed their own nation with a pro-slavery constitution. So the issue of slavery would require compromise if the United States were to survive. Washington and the other Founders hoped that slavery could be eliminated from the United States once a strong union was formed. ---- The compromise that settled the issue of how to count slaves for purposes of representation in the House came to be known as the **Three-fifths Compromise. It is sometimes wrongly said that the compromise meant the founders considered slaves as only partial human beings. In fact, the compromise had nothing to do with the human worth of the individual slave.** States with slaves wanted to count all of their slaves in the state's population because that would yield more representatives in Congress. The opponents of slavery, noting that slaves had no rights of citizenship including the vote, argued that slaves should not be counted at all for purposes of representation. (Emphasis mine)

Alexander Hamilton raised the obvious duplicity in not accepting an accurate count of the population that was tabulated when calculating "taxation," but accepting it when it came to claiming "representation." "Taxation without representation" was the catchphrase that sparked the American Revolution after all. Note that Hamilton, generally not regarded as the most empathic of the Founding Fathers, points to the full humanity of the slave population:

> Much has been said of the impropriety of

> representing men who have no will of their own. ...They are men, though degraded to the condition of slavery. They are persons known to the municipal laws of the states which they inhabit, as well as to the laws of nature. But **representation and taxation go together**. ...Would it be just to impose a singular burden, without conferring some adequate advantage? – (Pg. 237, "The Debates In The Several State Conventions On The Adoption Of The Federal Constitution, As Recommended By The General Convention At Philadelphia, In 1787," from the 1866 Jonathan Elliot edition, Emphasis mine)

The three-fifths ratio, also known as the "Federal ratio," would later have a major effect on pre-Civil War political affairs, again benefiting the slave-holders precisely because it disingenuously counted the very population they otherwise refused to recognize. It made for a disproportionate representation of slaveholding states relative to voters at a crucial juncture in the history of the United States. For example, in 1793 slave states would have been apportioned 33 seats in the House of Representatives had the seats been assigned based on the free population; instead they were apportioned 47. In 1812, slaveholding states had 76 instead of the 59 they would have had; in 1833, 98 instead of 73. As a result, southerners dominated the Presidency, the Speakership of the House, and the Supreme Court in the period prior to the Civil War. The end result was the prolonging of the "peculiar institution".

This is where Abraham Lincoln's genius as a legal mind must be consulted, and why many historians consider the American Civil War to truly be the second part of the American "revolution." Respected legal analysts like Lincoln were able to point to the Declaration of Independence and the U.S. Constitution as justification for the abolition of slavery. In fact, it is often postulated that the Civil War erupted when the South saw the one man who had proven intellectually capable of prosecuting the legal end of slavery, elected to the highest office in the land. The clarity in Lincoln's legal thinking only serves to reveal the inherently egalitarian nature of the Founding Documents. It can be easily argued that the pro-slavery forces had exhausted their legal remedies, and used war as their last resort.

More to the point, none of the work of the abolitionists would have been legally possible if the Constitution would have defined slaves as "private property." Instead, the Founding Fathers used phrases like "importation of Persons" (Article 1, Section 9) for the slave trade, "other persons" (Article 1, Section 2), and "person held to service or labor" (Article 4, Section 2) for slaves. The Confederates hit the proverbial reset button when they seceded from the Union and wrote their own version of the constitution. The Constitution of the Confederate States of America did, by intended contrast, define a slave as "private property." Section II of Article IV of the Constitution of the Confederate States of America reads:

> The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States; and shall have the right of transit and sojourn in any State of this Confederacy, with their slaves and other property; and the right of property in said slaves shall not be thereby impaired.

The Founding Fathers' subtle play on words, their "covert language" had been a ticking time bomb intended to undermine the institution of slavery. The Founding Fathers made calculated and sophisticated designs which insured that the words, "We hold these truths to be self-evident, that all men are created equal" would have formidable legal weight; enough to ultimately undermine slavery. These are the "truths" Abraham Lincoln used to justify his cause as an extension of the cause of the Founding Fathers. Candidate Lincoln's reply to Justice Douglas on October 15, 1858, the last of the Lincoln-Douglas debates, evidences this:

> Again: the institution of slavery is only mentioned in the Constitution of the United

> States two or three times, and in neither of these cases does the word "slavery" or "negro race" occur; but **covert language** is used each time, and for a purpose full of significance. (Emphasis mine)

Lincoln, the seasoned lawyer, goes on to further clarify the subversive choice of words woven into the 3/5ths clause by the Founding Fathers, resonating what Alexander Hamilton had once said:

> The next allusion in the Constitution to the question of slavery and the black race, is on the subject of the basis of representation, and there the language used is:— Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed,—three-fifths of all other persons. -- **It says "persons," not slaves, not negroes; but this "three-fifths" can be applied to no other class among us than the negroes.** (Emphasis mine)

Lincoln continues to debate this point with Douglas by extending his legal analysis to the legislation drafted by their contemporaries:

> Lastly, in the provision for the reclamation of fugitive slaves, it is said: "No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due." There again there is no mention of the word "negro" or of slavery. In all three of these places, being the only allusions to slavery in the instrument, **covert language** is used. Language is used not suggesting that slavery existed or that the black race were among us. And I understand the contemporaneous history of those times to be that **covert language** was used with a purpose, and that purpose was that in our Constitution, which it was hoped and is still hoped will endure forever,—when it should be read by intelligent and patriotic men, after the institution of slavery had passed from among us,—there should be nothing on the face of the great charter of liberty suggesting that such a thing as negro slavery had ever existed among us. **This is part of the evidence that the fathers of the Government expected and intended the institution of slavery to come to an end. They expected and intended that it should be in the course of ultimate extinction.** (Emphasis mine)

Abraham Lincoln was standing on solid legal ground in maintaining that slavery was incompatible with the Constitution, and that his legal interpretation was consistent with the opinions of the courts. One of the most prominent and historically important cases to swing upon this conception was the case of the Amistad slave ship. John Quincy Adams would be on the legal team defending the slaves that had revolted on the ship. John Quincy Adams, the eldest son of the Founding Father John Adams, eventually rose to the Presidency just like his father. "Quincy," as his father called him, knew the direction the country was going in. He predicted that the Union would dissolve over the contentious issue of slavery, and he accurately predicted that if it did come to war, the President would use his war powers to abolish slavery in the Union.

In 1841, Adams had the opportunity to leave his mark. He was asked to represent the Amistad Africans before the Supreme Court of the United States. The opinion of the U.S. Supreme Court case, United States v. The Amistad, 40 U.S. 15 Pet. 518 518 (1841) tells the plight of the Africans. It documents how the slaves in the Amistad mutinied and fought for their freedom from the Spaniards and Cubans, only to end up drifting off Long Island. They were discovered by the U.S. brig Washington, and were brought into the District of Connecticut where its officers claimed both the slaves and the vessel as their rightful property of salvage. The Spanish government became involved, and an international incident ensued.

"Quincy" perfected what had already been a brilliant argument by the lower court defense attorney, Roger Sherman Baldwin. Baldwin was the maternal grandson of notable founding father Roger Sherman. They argued that the Africans should not be extradited or deported to Cuba, then a Spanish colony where slavery was legal. Under President Martin Van Buren, the government argued the Africans should be deported for having mutinied and killed officers on the ship. Both "Quincy" and Baldwin addressed the U.S. Supreme Court Justices, as "Quincy" was ill on the first day. Both were brilliant. Their speeches were directed not only at the justices of this Supreme Court, but also to the broad national audience. They apparently made an impression. The lengthy U.S. Supreme Court opinion documents their logic:

> The negroes were never the lawful slaves of Ruiz or Montez, or of any other Spanish subject. They are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba in violation of the laws and treaties of Spain, and of the most solemn edicts and declarations of that government. ---- By the laws, treaties, and edicts of Spain, the African slave trade is utterly abolished, the dealing in that trade is deemed a heinous crime, and the negroes thereby introduced into the dominions of Spain are declared to be free. ---- There is no pretence to say the negroes of the Amistad are "pirates" and "robbers," as they were kidnapped Africans who, by the laws of Spain itself, were entitled to their freedom. [*sic.*]

Once it was established that the Africans could not be treated as pure "property" of a foreign state, the question as to their state as human beings came into play. According to United States law, individuals in a free-state were "presumed to be free." This concept was the slavery era's counterpart to "presumed to be innocent until proven guilty." The Africans aboard the Amistad had floated onto the shores of a free-state, were born free in Africa, and therefore remained free despite the Spaniard's efforts to enslave them in the process:

> Supposing the African negroes on board the Amistad not to be slaves, but kidnapped and free negroes, the treaty with Spain cannot be obligatory upon them, and the United States are bound to respect their rights as much as those of Spanish subjects. ---- The treaty with Spain never could have been intended to take away the equal rights of all foreigners who should assert their claims to equal justice before the Courts of the United States, or to deprive such foreigners of the protection given to them by other treaties or by the general law of nations.

Of importance is the legal analysis of the Founding documents that is provided in the extrapolated in the Court's Amistad opinion. The analysis provides a window into the minds and hearts of the Founding Fathers, and effectively renders moot any accusations of them as "slave-owning bigots." The analysis details the outstanding amount of sophistication employed by the Founding Fathers in order to insure that slavery would not endure, and intentionally set it in that direction through the "covert language" which Abraham Lincoln would later pick up on and allude to in his anti-slavery speeches:

> The recovery of slaves for their owners, whether foreign or domestic, is a matter with which the executive of the United States has no concern. The Constitution confers upon the government no power to establish or legalize the institution of slavery. It recognizes it as existing in regard to persons held to service by the laws of the States which tolerate it, and contains a compact between the States obliging them to respect the rights acquired under the slave laws of other States in the cases specified in the Constitution. But it imposes no duty, and confers no power, on the Government of the United States to act in regard to it. So far as the compact extends, the Courts of the United States, whether sitting in a free State or a slave State, will give effect to it. Beyond that, all persons within the limits of a State are entitled to the protection of its laws.

By this measure, the legal definition of slavery as "persons held to labor" is a subtle but brilliant way to insure that slavery would not endure. It was a direct and preemptive attack on the argument that slaves were "personal property" protected by the individual rights of the "owner." The Supreme Court opinion documents the formidable discipline by which this distinction was not only written into the Founding documents, but carried through in the drafting and editing of International treaties up through the early 1800's. The explanation by the Supreme Court is quoted at length here as it provides the basis for Abraham Lincoln's legal analysis of the use of "covert language:"

> **The Constitution as it now stands will be searched in vain for an expression recognizing human beings as merchandise or legitimate subjects of commerce.** In the case of New York v. Miln, 11 Pet. 104, 36 U. S. 136, Judge Barbour, in giving the opinion of the Court, expressly declares, in reference to the power "to regulate commerce" conferred on Congress by the Constitution, that "persons are not the subjects of commerce." Judging from the public sentiment which prevailed at the time of the adoption of the Constitution, it is probable that the first act of the government, in the exercise of its power to regulate commerce, would have been to prohibit the slave trade, if it had not been restrained until 1808 from prohibiting the importation of such persons as any of the States then existing, should think proper to admit. But could Congress have passed an act authorizing the importation of slaves as articles of commerce into any State in opposition to a law of the State prohibiting their introduction? If they could, they may now force slavery into every State. For no State can prohibit the introduction of legitimate objects of foreign commerce when authorized by Congress. ---- **The United States, as a nation, is to be regarded as a free State. And all men being presumptively free, when "merchandise" is spoken of in the treaty of a free State, it cannot be presumed that human beings are intended to be included as such.** Hence, whenever our government have intended to speak of negroes as property in their treaties, they have been specifically mentioned, as in the treaties with Great Britain of 1783 and 1814. It was on the same principle that Judge Drayton, of South Carolina, decided, in the case of Almeida, who had captured, during the last war, an English vessel with slaves, that the word "property" in the prize act did not include negroes, and that they must be regarded as prisoners of war, and not sold or distributed as merchandise. [*sic.*] (Emphasis mine)

The analysis of the U.S. Supreme Court, which interpreted the intentions of the Founding Fathers to make the "nation" a "free State," with "all men being presumptively free" was the deciding factor in the fate of the Amistad victims. They were born free, taken briefly as hostages illegally, and then presumed to be in a state of freedom when landing upon U.S. shores. "Legislative intent" controls, or should control, any court decision in interpreting any laws or the Constitution. In the Cooper Union speech, Abraham Lincoln documented the acts of the Founding Fathers with respect to the issue of slavery, and cemented in fact his legal opinion that the "intent" of the Founding Fathers was to peaceably and systematically abolish slavery. Lincoln the lawyer again said so in the Cooper Union Speech that was delivered on February 27, 1860, in New York City. Lincoln was not yet the Republican nominee for the presidency, as the convention was scheduled for May. It is considered one of his most important yet little known speeches. First he turns to official acts by George Washington in order to arrive at "legislative intent":

> …he had, as President of the United States, approved and signed an act of Congress, enforcing the prohibition of slavery in the Northwestern Territory, which act embodied the policy of the Government upon that subject up to and at the very moment he penned that warning; and about one year after he penned it, he wrote Lafayette that he considered that prohibition a wise measure,

> expressing in the same connection his hope that we should at some time have a confederacy of free States. (Abraham Lincoln, Cooper Union Speech)

Lincoln, like the Founding Fathers, has also been unjustly slandered and maligned as a "racist" by modern day pundits and historians. Some historians will choose to remember the fact that Lincoln had doubts that blacks were equal to whites. Men will mince Lincoln's words. Lincoln's personal opinion on "popular sovereignty" was best described by his famous statement of August 1, 1858: "As I would not be a slave, so I would not be a master. This expresses my idea of democracy. Whatever differs from this, to the extent of the difference, is no democracy." (Abraham Lincoln, August 1, 1858 Fragment on Democracy) Abraham Lincoln would repeat this time and time again: "This is a world of compensations; and he who would be no slave, must consent to have no slave." (Abraham Lincoln, April 6, 1859 Letter to Henry Pierce)

They miss the point of what Lincoln and those who fought at Gettysburg died for. For all of the humanity that Abraham Lincoln can be found guilty of, what was ultimately important was that, like the Founding Fathers, Lincoln recognized his prejudices but aspired for better; that this nation was "conceived in Liberty," and never destined to remain the caste and class system of social divisions of the Old World.

Lincoln's legacy is irreplaceable. The various Civil Rights laws which were created by his sacrifice are utilized on a daily basis to protect or restore the rights of individuals across the United States. They endure into posterity as the very real and very palpable extensions of Thomas Jefferson's Declaration of Independence. They are Jefferson's and Lincoln's vision practically applied and codified into a form which courts use day to day, month by month, and year by year to defend the rights of people of all ethnic and cultural backgrounds. Lincoln would address the motives of the author of the Declaration of Independence, Thomas Jefferson, one of the Founding Fathers whose sincerity is too often questioned:

> In the language of Mr. Jefferson, uttered many years ago, "It is still in our power to direct the process of emancipation, and deportation, peaceably, and in such slow degrees, as that the evil will wear off insensibly; and their places be, pari passu, filled up by free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospect held up". [.sic] (Abraham Lincoln, Cooper Union Speech)

This is also a testament to Abraham Lincoln as a public servant. Whatever personal prejudices he may have held, he understood that he was elected and swore to uphold the Constitution. Whatever personal opinions he may have held about blacks were set aside for principles he deemed greater than himself, and he willingly gave his life for the cause of liberty as enshrined by the Founding Fathers in the Constitution and the Declaration of Independence. He did so with more than just his immediate generation in mind; he did so to preserve the Union as it preserved the ideals of liberty for all posterity. If the Union "perished from this earth," so did the ideals it was founded upon:

> And when I say that I desire to see the further spread of it arrested, I only say I desire to see that done which the fathers have first done. When I say I desire to see it placed where the public mind will rest in the belief that it is in the course of ultimate extinction, I only say I desire to see it placed where they placed it. It is not true that our fathers, as Judge Douglas assumes, made this Government part slave and part free. Understand the sense in which he puts it. He assumes that slavery is a rightful thing within itself,—was introduced by the framers of the Constitution. The exact truth is, that they found the institution existing among us, and they left it as they found it. But in making the Government they left this institution with many clear marks of

> disapprobation upon it. They found slavery among them, and they left it among them because of the difficulty—the absolute impossibility—of its immediate removal.

Lincoln again states his duty to preserve the "legal intent" of the Framers in a letter written to A. G. Hodges, Esq. on April 4, 1864, President Lincoln states in part:

> I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I cannot remember when I did not so think, and feel. And yet I have never understood that the Presidency conferred upon me an unrestricted right to act officially upon this judgment and feeling. It was in the oath I took that I would, to the best of my ability, preserve, protect, and defend the Constitution of the United States. I could not take the office without taking the oath. Nor was it my view that I might take an oath to get power, and break the oath in using the power. I understood, too, that in ordinary civil administration this oath even forbade me to practically indulge my primary abstract judgment on the moral question of slavery. I had publicly declared this many times, and in many ways. And I aver that, to this day, I have done no official act in mere deference to my abstract judgment and feeling on slavery. I did understand however, that my oath to preserve the constitution to the best of my ability, imposed upon me the duty of preserving, by every indispensable means, that government---that nation---of which that constitution was the organic law. (Lincoln, Abraham, 1809-1865. Collected Works of Abraham Lincoln. Volume 7)

Without the Union, there was no Declaration of Independence. Without the predominance of the Declaration, as consecrated in the Constitution, the nation could easily be remade to include slavery. Lincoln understood that if the U.S. Constitution was altered or interpreted to allow for slavery, or by any allusion to a feudal subservience, that everything the Founding Fathers had gained for humanity would be lost or more precisely, "perish from this earth." The Southern leadership was self-interested enough to ignore Lincoln's warnings, and it is by the grace of God that Lincoln and the Union prevailed, as the consequences of subsuming individual rights would have been a dreadful and irreparable harm to humanity:

> Don't interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties. And not to Democrats alone do I make this appeal, but to all who love these great and true principles. (Abraham Lincoln, August 27, 1856, Speech at Kalamazoo, Michigan)

Another forgotten aspect of this episode of history is that none other than Karl Marx, the father of Communism, agreed with Lincoln's legal analysis. Karl Marx was working in England as a war correspondent covering the American Civil War at the moment. Marx recognized this crucial aspect of the American Civil War, that slavery was incompatible with the Union as intended by the Founding Fathers. More importantly, for history's sake, it's curious to see Marx agree with Lincoln's legal analysis. Marx explicitly says so in an article written for "*Die Presse*," on October 5th, 1861, titled "The North American Civil War:"

> The question of the principle of the American Civil War is answered by the battle slogan with which the South broke the peace. Stephens, the Vice-President of the Southern Confederacy, declared in the Secession Congress that what essentially distinguished the Constitution newly hatched at Montgomery from the Constitution of Washington and Jefferson was that now for the first time slavery was recognized as an institution good in itself, and as the foundation of the whole state edifice, whereas the revolutionary fathers, men steeped in the prejudices of the eighteenth century, had treated slavery as an evil imported from England and to be eliminated in the course of time. [*sic.*]

Lincoln would win the Civil War and lose his life to the cause of slavery. After the Civil War the U.S. Congress made it a point to use the word

"slavery," instead of "persons held to labor," so there would be no mistake as to what they were abolishing. Section I of the 13 Amendment to the U.S. Constitution reads:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." (adopted by Congress, Jan. 31. 1865; ratified Dec. 6, 1865)

The Founding Fathers and Abraham Lincoln devoted their lives to uphold the sanctity of the individual. To them, the personal prejudices of man were beneath the Constitution and the Declaration of Independence. Men like Jefferson and Lincoln admitted their personal prejudices, but adamantly asserted that regardless of origin, all are "created equal," with "equal opportunity to life, liberty, and the pursuit of happiness" by their "Creator." It's precisely because Thomas Jefferson and Abraham Lincoln, as frail and imperfect men, openly recognized their prejudices that one must regard the Declaration of Independence, the U.S. Constitution, and the Emancipation Proclamation as superior works of humanity. That is exactly what the founding documents were designed to do: transcend personal prejudices and contemporary banalities. This is the underlying strength of the founding documents, and unfortunately, this is precisely the lesson that was never understood by the pro-slavery forces that begun in earnest to discard these documents, or by present day pundits.

The 3/5ths clause is certainly a suspect method of describing a person, but if Lincoln the lawyer was correct, and history has proven him so, then using this phraseology was a complete necessity in taking the third step towards emancipation. The U.S. Constitution and the Declaration of Independence were the first steps towards that effort, and making doubly sure that nowhere where Africans referred to as "property" or "slaves" as the slaveholders desperately wanted to, was crucial. One can only speculate and hypothesize on the trajectory of history if the Declaration or Constitution actually had included legally charged terms like "property" or "slave".

More to the point, this curious choice of words, this "covert language" employed by the Founding Fathers, is in actuality the best proof that the United States was not founded as a nation of "racists." Rather, it was founded by men with the foresight to understand that their efforts were the best hope to attain and preserve liberty for all. It may take longer than the 21st century to comprehend the depth and breadth of President Lincoln's fears; that the best and last hope towards human liberty "not perish from the earth." The stakes were much higher than the liberty of four million humans. At issue was the "liberty" of anyone and everyone whom would live under the U.S. Constitution thereafter.

> ***It is not merely for to-day, but for all time to come that we should perpetuate for our children's children this great and free government, which we have enjoyed all our lives.***
>
> (Abraham Lincoln, August 22, 1864 - Speech to the One Hundred Sixty-sixth Ohio Regiment)

WRITTEN BY: A.E. Samaan – Feb. 2014
FOR MORE INFO VISIT: www.AESamaan.com

PARTIALLY DERIVED FROM THE 2013 BOOK:
FROM A "RACE OF MASTERS" TO A "MASTER RACE": 1948 to 1848

ISBN-13: 978-0615747880 (A.E. Samaan)
Library of Congress: 2012924377